

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Norfolk Southern Railway Company, Springfield Township of	:	
Sangamon County, the County of Sangamon, and the State of	:	
Illinois, Department of Transportation.	:	
	:	
Stipulated Agreement regarding improving public safety at the	:	T03-0026
Milton Avenue highway-rail grade crossing of the Norfolk	:	
Southern Railway Company's track located in Springfield	:	
Township near the Village of Grandview, Sangamon County,	:	
Illinois, designated as crossing AAR/DOT 479 306F, milepost	:	
411.68WC.	:	

SUPPLEMENTAL ORDER

By the Commission:

On April 23, 2003, the Illinois Commerce Commission (Commission), entered its Order in this matter that required the County of Sangamon (County), acting as an agent on behalf of Springfield Township (Township) to construct a new roadway by the extension of Scarborough Road to Milton Avenue near the Village of Grandview, Sangamon County, Illinois. The new roadway would allow for the closure of the Milton Avenue highway-rail grade crossing of the Norfolk Southern Railway Company's (NS) track via vacation procedures initiated by the Township after the completion of the connecting road. The Township was further required to remove those portions of Milton Avenue, both north and south of the crossing, within the NS right-of-way. The NS was required to close, abolish, and barricade the Milton Avenue grade crossing and remove the crossing surface upon completion of the connecting road between Milton Avenue and Scarborough Road. The Stipulated Agreement contained an estimate of cost to accomplish the improvements and a division of cost among the parties. The Grade Crossing Protection Fund (Fund) was required to pay 100% of the cost of the connecting road, in an amount not to exceed \$61,060.

On November 19, 2003, the County filed its Supplemental Petition with the Commission stating that the lowest bid accepted increased the cost of the project to \$75,103. Three bids were opened with P.H. Broughton submitting the low bid of \$44,959 for the construction phase toward the connecting road. At the time of the bid opening, the County's Engineer's estimate for this portion of the project was set at \$30,317 and the amount set forth in the Commission Order for construction was \$33,250. After reviewing the bids and discussing the bids with the Field Engineer with IDOT District 6, it was decided to adjust the County Engineer's estimate to \$40,772. All other cost listed in the budget were very close to the original estimates with the exception of the right-of-way

acquisition. Fence damages were not included and the additional cost was \$3,480. When the original estimate was prepared, the small quantities in the project were not considered. It was decided to award the contract to the low bidder. The County Board of Sangamon County authorized the Road and Bridge Committee to ward the contract so construction could start as soon as possible. Therefore, the County requests that the Commission increase the eligible costs for the project from \$61,060 to \$75,103. This is an increase of \$14,043 in Fund assistance over the amount set forth in the original Order.

The County also stated in its Supplemental Petition that on May 16, 2003, the Illinois Department of Transportation ("IDOT") approved the roadway plans. In addition, the County began right-of-way acquisition for the proposed project on July 7, 2003 and right-of-way acquisition was completed on October 14, 2003. The letting was held on October 31, 2003. The contractor, P.H. Broughton, has indicated that it will start the construction of the connecting road as soon as it receives a signed contract. Construction should start around the week of November 17, 2003. There will be some seal coat (oil & chip) work that will not be completed this fall due to being too late in the season to perform such work. If weather permits, the contractor plans to complete the project this fall with the exception of the seal coat. The County requests an extension of time to and including May 31, 2004, within which to complete the work as required by the original Order dated April 23, 2003.

Since this is the only ingress/egress into this residential area, and there is no other roadway into the area for emergency vehicles when a train is blocking the crossing, staff feels that this is a very worthwhile project and that the slight increase in Fund participation being requested by the County should be granted. Staff is also of the opinion that the requested extension of time should also be granted. It is too late in the season to get the bituminous materials to complete the project this fall.

The Commission, having given due consideration to the Stipulated Agreement and original Order, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact as set forth in the prefatory portion of this Supplemental Order are true and correct and are hereby adopted as findings of fact;
- (3) Section 5(a) of the Stipulated Agreement, appended to the original Order and referred to as Finding 5, should be amended to reflect the increase in the actual cost for the roadway project and the following amended Section 5(a) should be substituted therefore;

The cost for construction of the connecting road as described in Section 2(a) and in Exhibit B herein is estimated to be \$75,103. The Grade Crossing Protection Fund shall pay 100% of the construction costs, not to exceed \$61,060. The TOWNSHIP shall pay any remaining costs for construction of the connecting road and all future maintenance costs of the new roadway.

- (4) An extension of time to and including May 31, 2004, should be granted to the County within which to complete the work as required by the original Order dated April 23, 2003;
- (5) All bills for expenditures authorized reimbursed from the Grade Crossing Protection Fund shall be submitted to the Bureau of Local Roads and Streets, District 6 of the Illinois Department of Transportation, 126 East Ash Street, Springfield, Illinois. 62704-4792. A copy of all bills received shall be submitted to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from the County shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the date of completion as set forth in this Commission Supplemental Order or May 31, 2004. The Department shall, at the end of the 12<sup>th</sup> month from the Commission's Supplemental Order completion date (May 31, 2004), de-obligate all residual funds accountable for the cost of the extension of Scarborough Road;
- (6) All status reports shall be due at the same time interval to the new completion date of May 31, 2004;
- (7) All other terms and conditions of the original Order dated April 23, 2003, shall remain in full force and effect, except as herein modified;

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Section 5(a) of the Stipulated Agreement attached to the original Order be, and it is hereby, amended and a new Section 5(a) as contained in Finding 3 herein be substituted therefore.

IT IS FURTHER ORDERED that an extension of time, to and including May 31, 2004, be, and it is hereby granted, to the County of Sangamon within which to complete the work as required by the original Order dated April 23, 2003.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order dated April 23, 2003, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to the Bureau of Local Roads and Streets, District 6 of the Illinois Department of Transportation, 126 East Ash Street, Springfield, Illinois. 62704-4792. A copy of all bills received shall be submitted to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from the County shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the date of completion as set forth in this Commission Supplemental Order. The Department shall, at the end of the 12<sup>th</sup> month from the Commission's Supplemental Order completion date, de-obligate all residual funds accountable for the cost of the extension of Scarborough Road.

IT IS FURTHER ORDERED that all status reports' dates shall remain due at the same interval of time as required in the original Order.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to the Administrative Review Law.

By Order of the Commission this 17<sup>th</sup> day of December, 2003.

*Edward C. Husley* 2

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR